

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

**JOINT STATUS REPORT OF MOVANT AMBAC ASSURANCE CORPORATION
AND RESPONDENTS THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD
FOR PUERTO RICO, THE COMMONWEALTH OF PUERTO RICO, AND THE
PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY WITH
RESPECT TO THE PENSIONS DISCOVERY MOTIONS**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747).

To the Honorable United States Magistrate Judge Judith Gail Dein:

Movant Ambac Assurance Corporation (“Ambac”) and Respondents The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Oversight Board as the Commonwealth’s representative pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF” and together with the Oversight Board and the Commonwealth, the “Respondents”),² respectfully submit this joint status report in response to the Court’s July 26, 2019 Order (Dkt. No. 8291).

1. On June 18, 2019, Ambac filed its *Motion To Compel Pensions Discovery* (Dkt. No. 7505) and *Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004* (Dkt. No. 7507) (together, the “Pensions Discovery Motions”).
2. On July 9, 2019, Respondents filed their *Omnibus Opposition to the Pensions Discovery Motions* (Dkt. No. 7895) (“Opposition Brief”).
3. On July 15, 2019, the Parties jointly filed an urgent motion seeking an order (i) deferring consideration of the Pensions Discovery Motions to the July 30, 2019 hearing before the Honorable Judith G. Dein, in order to provide the Parties with additional time to meet and confer regarding the requests; and (ii) extending the deadline for Ambac to file its reply to the Opposition Brief to July 23, 2019 (Dkt. No. 8007). In the urgent motion, the Parties informed the Court that AAFAF had agreed to produce certain responsive materials, and that the Parties had agreed to meet and confer further on the Pensions Discovery Motions in an effort to narrow the dispute for the Court. On July 16, 2019, the Court granted the urgent motion (Dkt. No. 8017).

² The Movants and Respondents are collectively referred to as the “Parties.”

4. On July 19, 2019, AAFAF produced fourteen documents relating to the pensions systems.

5. On July 22, 2019, Ambac and AAFAF met and conferred regarding the scope of the requests. During the meet and confer, Ambac agreed to prioritize the following requests from its *Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004* (Dkt. No. 7507):

- Request No. 21: All documents, communications, studies, data, and/or analyses prepared for or relied upon in connection with the actuarial analysis of pension funding requirements referenced on page 181 of the New Fiscal Plan.
- Request No. 26: All census files used in developing the last three annual sets of aggregate liability and benefit payment projects for each component of the Pension Systems.
- Request No. 27: All ProVal library files (in provaldd.sf, pvvip.sf, pvasmp.sf, and/or pvout.sf format) used in developing the last three sets of aggregate liability and benefit payment projects for each component of the Pension Systems.
- Request No. 28: All documents, communications, studies, data, and/or analyses concerning the announcement made by Governor Ricardo Rosselló regarding a joint resolution to use \$1.4 billion from the Commonwealth's single treasury account to restore past contributions made by public servants to individual retirement accounts under the System 2000 program.
- Request No. 29: All documents shared with or received from the Puerto Rico Teachers Association in connection with its attempted agreement with the Oversight Board, announced on or about June 3, 2019, regarding the treatment of pensions in a future Commonwealth plan of adjustment, including, but not limited to, the use of cash contemplated by such agreement and/or whether any such cash will be placed in trust.
- Request No. 30: All documents shared with or received from the Puerto Rico United Public Servants Union in connection with its agreement with the Oversight Board, announced on or about June 10, 2019, regarding the treatment of pensions in a future Commonwealth plan of adjustment, including, but not limited to, the use of cash contemplated by such agreement and/or whether any such cash will be placed in trust.
- Request No. 31: All documents shared with or received from the Official Committee of Retired Employees of the Government of Puerto Rico in connection with its agreement with the Oversight Board, announced on or about June 12, 2019, regarding the treatment of pensions in a future Commonwealth plan of adjustment, including, but not limited to, the use of cash contemplated by such agreement and/or whether any such cash will be placed in trust.

6. During this meet and confer, AAFAF reported that it would work to identify and produce documents responsive to Request Nos. 26 and 28. AAFAF further represented that it had not located any materials responsive to Request Nos. 29, 30, and 31, and suggested that Ambac discuss these requests with the Oversight Board. Finally, the Parties agreed that each side's pension experts should confer regarding Request Nos. 21 and 27, in order to determine what documents are needed in order to properly analyze and evaluate the Commonwealth's pensions liabilities.

7. On July 23, 2019, Ambac submitted its reply in further support of the Pensions Discovery Motions (Dkt. No. 8230) ("Reply Brief"). In its Reply Brief, Ambac represented that the Parties agreed that recent discussions among the Parties had been in good faith and constructive, and stated that the Parties had agreed to continue to meet and confer over the course of the week in order to determine whether they could reach further agreement regarding the scope of the requests.

8. On July 24, 2019, AAFAF produced three documents in connection with Request No. 23:

- 2014-10 Administrative Order for the Concession of Plans of Payment of the Retirement Systems Administration of the Employees of the Government and the Judiciary;
- Milliman Actuarial Valuation Report for the Puerto Rico Government Employees Retirement System, dated June 30, 2017.
- AAFAF spreadsheet covering years 2000-2017, which among other things lists number of participants, initial balance, input, settings, refund disbursement, list earnings, holding charges, final balance, salary, contribution, and background.

9. AAFAF represented that the Milliman report and AAFAF spreadsheet are the documents underlying the Governor's announcement regarding a joint resolution to use \$1.4 billion from the Commonwealth's single treasury account to restore past contributions made by public servants to individual retirement accounts under the System 2000 program.

10. On July 26, 2019, Ambac and the Oversight Board met and conferred regarding certain of the requests. During the meet and confer, the Oversight Board agreed to search for and produce relevant documents responsive to Request Nos. 29, 30, and 31, subject to any objections based on burden or privilege.

11. The same day, the Parties filed a motion requesting an order granting an adjournment of the hearing on the Pensions Discovery Motions in order to allow the Parties to continue to meet and confer (Dkt. No. 8271). On July 26, 2019, the Court granted the motion, adjourning the hearing on the Pensions Discovery Motions to August 15, 2019, and ordering the Parties to submit a joint status report to the Court on the remaining issues for adjudication on or before August 12, 2019 (Dkt. No. 8291).

12. On August 2, 2019, the Parties met and conferred to discuss the status of the collection, review, and production process. During the meet and confer, AAFAF represented that it considered its response to Request No. 28 to be complete. With regard to Request No. 26, AAFAF stated that it would confirm that it had produced all relevant census data for the ERS, TRS, and JRS pension systems. The Oversight Board stated that it had started working to identify documents responsive to Request Nos. 29, 30, and 31, and that it anticipated it would be able to start producing documents in the next week.

13. On August 9, 2019, the Parties again met and conferred to discuss the status of the collection, review, and production process. The Oversight Board confirmed that it would produce documents that day, and AAFAF represented that it would produce additional documents within the next week. The Parties also agreed to a process designed to narrow the scope of Request Nos. 21 and 27.

14. On August 9, 2019, the Oversight Board produced 106 documents responsive to Request Nos. 29, 30, and 31.

15. At this point, the Parties continue to engage in good faith discussions in an attempt to narrow the remaining issues that require adjudication by this Court. As discussed above, Respondents are collecting and reviewing documents, and expect to make several productions in the next week. In addition, Ambac continues to evaluate the adequacy of the materials recently produced by Respondents to determine whether they satisfy the requests.

16. Thus, concurrently with this Motion, the Parties have filed a joint motion requesting an adjournment of the hearing on the Pensions Discovery Motions to the September Omnibus Hearing, in order to allow the Parties to continue to meet and confer to determine whether they can reach further agreement regarding the scope of the requests.

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Dated: August 12, 2019
San Juan, Puerto Rico

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CERTIFICATE OF SERVICE

I hereby certify that on this same date a true and exact copy of this notice was filed with the Clerk of Court using the CM/ECF system, which will notify a copy to counsel of record.

/s/ Roberto Cámara-Fuertes
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